

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ELMER EUGENE WALKER,

Plaintiff,

v.

JENNA NELSON, et al.,

Defendants.

No. 2:22-cv-01327 KJM DB P

FINDINGS AND RECOMMENDATIONS

Plaintiff, a state prisoner, filed this pro se civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff claims that defendants impeded his access to the court in violation of his civil rights. Plaintiff filed a motion to proceed in forma pauperis. (ECF No. 4.) On January 12, 2023, the undersigned issued findings and recommendations recommending that plaintiff not be allowed to proceed in forma pauperis (“IFP”) under 28 U.S.C. § 1915(g) and that the court order plaintiff to pay the \$402 filing fee. (ECF No. 11.) This recommendation was based on plaintiff’s complaint not alleging imminent danger of serious physical injury and court records indicating plaintiff has brought three or more prior dismissed actions within the meaning of subdivision (g) of section 1915. (*Id.* at 4.) The District Court adopted the findings and recommendations on March 30, 2023. (ECF No. 13.) Plaintiff was ordered to pay the filing fee within thirty days and warned that failure to comply would result in dismissal. (*Id.*)

Those thirty days have passed, and plaintiff has not paid the filing fee or otherwise responded to the court's order. The undersigned will recommend this action be dismissed without prejudice.

For the foregoing reasons, IT IS RECOMMENDED that:

1. This action be dismissed without prejudice; and
2. The Clerk of the Court be directed to close this case.

These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty (20) days after being served with these findings and recommendations, plaintiff may file written objections with the court and serve a copy on all parties. Such a document should be captioned "Objections to Magistrate Judge's Findings and Recommendations." Plaintiff is advised that failure to file objections within the specified time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

Dated: June 21, 2023


DEBORAH BARNES
UNITED STATES MAGISTRATE JUDGE

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